



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

NOV 6 2006

Ms. Jennifer Hildebrand

Sammanish, Washington 98075

RE: MUR 5872

Dear Ms. Hildebrand:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") became aware of information suggesting you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). On October 30, 2006, the Commission found reason to believe that you violated 2 U.S.C. §§ 432(b)(3) and 439a(b), provisions of the Act, and 11 C.F.R. § 113.1(g). Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. In the meantime, this matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to you as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that you violated the law. [REDACTED]

If you are interested in engaging in pre-probable cause conciliation, please contact Kate Belinski, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable

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opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 2 U.S.C. § 437(g)(a), 11 C.F.R. Part 111 (Subpart A). Similarly, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

Sincerely,



Michael E. Toner
Chairman

Enclosures

Factual and Legal Analysis

Procedures

Designation of Counsel Form

[Redacted]

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Jennifer Hildebrand MUR: 5872

I. INTRODUCTION

This matter was generated by the Federal Election Commission ("the Commission") pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. *See* 2 U.S.C. § 437g(a)(2). Based upon such information and the analysis below, there is reason to believe that Jennifer Hildebrand knowingly and willfully violated 2 U.S.C. §§ 432(b)(3) and 439a(b), and 11 C.F.R. § 113.1(g), by commingling Committee funds with personal funds and converting those funds to her personal use.

II. FACTUAL AND LEGAL ANALYSIS

Jane Hague was a candidate in the 2004 Republican primary for Washington's 1st Congressional District, and Hague for Congress ("the Committee") was her principal campaign committee. Since 1994, and concurrent with her federal candidacy, Hague served as a local councilwoman on the King County Council, an office she continues to hold today. Jennifer Hildebrand, daughter of Hague's longtime family friend, worked on several of Hague's local campaigns as well as her 2004 federal campaign. Available information indicates that Hildebrand assisted with a variety of campaign tasks including bookkeeping and writing checks.

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In February 2004, prior to the primary election, Hague dropped out of the congressional race. Thereafter, the Hague Committee reportedly began issuing refund checks to some larger contributors. Available information indicates that the Hague Committee was first put on notice of an embezzlement scheme when a campaign contributor reviewing the Hague Committee's filings on the FEC website saw his name listed as the recipient of a refund that he never actually received. In January 2005, the Hague Committee launched an internal investigation and uncovered Hildebrand's embezzlement scheme dating back to a 1997 county election and including Hague's federal campaign during the 2004 election cycle.

Hildebrand made 51 separate unauthorized disbursements of Committee funds totaling \$56,209.82 from October 2003 to November 2004. Fifty of the disbursements were made payable to "Jennifer Hildebrand" and one was payable to her childcare provider, "Montessori Children's House." The Committee's original disclosure reports described 24 of the 51 unauthorized disbursements as refunds to contributors, and the remaining 27 disbursements as operating expenditures. Of these 27 "operating expenditures," eight were originally disclosed as disbursements to Hildebrand as compensation for "consulting/fundraising."

It appears that Hildebrand commingled personal funds through her embezzlement scheme. The Act prohibits the commingling of committee funds with "the personal funds of any individual." See 2 U.S.C. § 432(b)(3) and 11 C.F.R. § 102.15. The available information indicates that Hildebrand wrote 50 checks to herself totaling \$55,009.82 from the Committee's account without authorization. These checks were disguised as operating expenditures and refunds to contributors on the Committee's disclosure reports. Based upon this information, it is likely that Hildebrand knowingly commingled some, if not almost all, of the embezzled federal

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funds with her own personal funds.¹ Therefore, there is reason to believe that Hildebrand knowingly and willfully violated 2 U.S.C. § 432(b)(3) by commingling Committee funds with her personal funds.

Hildebrand also appears to have converted campaign funds for her personal use. The Act prohibits "any person" from converting contributions or donations to a candidate's authorized committee for the individual's personal use. 2 U.S.C. § 439a(b). The Act sets forth examples of *per se* instances of improper personal use, such as using campaign contributions or donations for mortgage or rental payments, clothing expenses, noncampaign-related automobile expenses, or household food items. *See* 2 U.S.C. § 439a(b)(2)(A)-(I); *see also* 11 C.F.R. § 113.1(g). In addition, the Act considers a contribution or donation improperly converted for personal use if "the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective" of the campaign. 2 U.S.C. § 439a(b)(2). Hildebrand made one check in the amount of \$1,200 directly payable to her children's school. Hildebrand may have expended the remaining funds for similarly personal uses. Therefore, there is reason to believe that Jennifer Hildebrand knowingly and willfully violated 2 U.S.C. § 439a(b) and 11 C.F.R. § 113.1(g) by converting campaign funds to her own personal use.

¹ To establish a knowing and willful violation, there must be knowledge that one is violating the law. *See FEC v. John A. Dramesi for Congress Comm.*, 640 F. Supp. 985, 987 (D. N.J. 1986). A knowing and willful violation may be established "by proof that the defendant acted deliberately and with knowledge that the representation was false." *US v. Hopkins*, 916 F.2d 207, 214 (5th Cir. 1990). An inference of a knowing and willful act may be drawn "from the defendant's elaborate scheme for disguising" his or her actions. *Id.* at 214-15.